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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/593,455

02/02/2007

Jan Falck-Schmidt

PATRADE

8989

49801 7590 09/15/2010

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EXAMINER

TO, TOAN C

ART UNIT

PAPER NUMBER

3616

MAIL DATE

DELIVERY MODE

09/15/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/593,455
Filing Date: February 02, 2007
Appellant(s): FALCK-SCHMIDT, JAN

Mr. Wray, James
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 10, 2010 appealing from the Office action mailed December 16, 2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 2-4 were finally rejected over prior art.

Claim 1 was canceled.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

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subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

4,619,578

Routledge

10-1986

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 2-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Routledge (U.S. 4,619,578).

With respect to claim 2, Routledge discloses a self-propelled vehicle for performing support or service work on airplanes comprising a self-propelled vehicle having a bottom (bottom of frame 12), a set of wheels (19) movably disposed in a first position on the vehicle (position of the vehicle in figure 2), a first distance between the bottom of the vehicle and a surface o/a which the vehicle is supported, a second distance between the bottom of the vehicle and the surface; the second distance formed by moving the set of wheels to a second position such that the vehicle is raised from the surface, wherein the second distance is substantially greater than the first distance (as best seen in figures 1 and 2, the distance between the bottom of the frame 12 and the

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ground in figure 1 is greater than the distance between the bottom of the frame 12 and the ground).

With respect to claims 3-4, Routledge disclose a vehicle comprising a bottom (bottom of frame 12) and a set of wheels 19) movably disposed between a first position (position of the vehicle as shown in figure 2) and a second position (position of the vehicle as shown in figure 1) with respect to the vehicle, wherein in the first position the set of wheels extend above the bottom of the vehicle and in the second position the set of wheels are lowered to extend under the bottom (figure 1 shows the set of wheels 19 extend under the bottom of frame 12) of the vehicle such that the vehicle is raised from a support surface supporting the vehicle; a tow bar (combination of 51 and 52) for towing the vehicle as a trailer.

(10) Response to Argument

In response to appellant's argument with respect to rejection of claim 2:

The examiner respectfully disagrees with appellant's argument that Routledge does not describe, teaches or inherently provide the claimed limitation "self-propelled vehicle" as recited in claim 2. In Routledge, the semi-trailer truck 10 is propelled by its own engine power and has a trailer mechanism 11 attached to the rear thereof. Both the semi-trailer truck and the trailer mechanism when interconnected to each other as a whole are propelled by the engine power of the truck 10; therefore the semi-trailer truck 10 and the trailer mechanism 11 in combination is considered to correspond with "a self-propelled vehicle" as called out in claim 2.

In response to appellant's arguments with respect to rejection of claim 3:

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The examiner respectfully disagrees for the following reasons: in Routledge, the vehicle comprises a set of wheels 19, and a longitudinal frame member 11 having a bottom, and by broadest reasonable interpretation, the examiner interpreted the bottom of the longitudinal frame of Routledge to correspond with "the bottom of the vehicle" as called out in claim 3, and it is clear that figure 1 of Routledge shows when the vehicle is unloaded the set of wheels 19 are lowered to extend under the bottom of the longitudinal frame member 11, and figure 2 of Routledge shows when the vehicle is loaded the set of wheels 19 extend above the bottom the longitudinal frame 11, as in the present invention. It is noted that although the set of wheels 19 do not completely extend above the bottom of the longitudinal frame 11, the set of wheels partially extend above the bottom of the frame 11 similarly to the position of the set of wheels of the present invention when in the first position.

In response to appellant's arguments with respect to rejection of claim 4:

The examiner respectfully disagrees for the following reasons: claim 4 recited "a tow bar for towing the vehicle as a trailer", and a recitation "for towing the vehicle as a trailer" is considered as an intended use recitation and the recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, the hitch structure 51 of Routledge is in form of a bar and capable for towing a trailer, for example, when the semi-trailer 10 and the trailer mechanism 11 are attached to each other, one skill in the art would know how to use a

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chain or a rope to attach one end to the hitch structure 51 and another end to the trailer for towing the trailer

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Toan C To/
Primary Examiner, Art Unit 3616
September 11, 2010

Conferees:

Toan To /tt/

Paul Dickson /pd/

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